

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

No.

LEO H. HILL AND UNITED ASSOCIATION OF JOUR-
NEYMEN PLUMBERS AND STEAMFITTERS OF
UNITED STATES AND CANADA, LOCAL No. 234,
PETITIONERS,

vs.

STATE OF FLORIDA, EX REL., J. TOM WATSON,
ATTORNEY GENERAL

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT
OF THE STATE OF FLORIDA

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[fols. 1-4] **IN CIRCUIT COURT OF DUVAL COUNTY****BILL OF COMPLAINT—Filed October 8, 1943****To the Honorable Judges of the above styled court:**

Comes now the State of Florida on the relation of J. Tom Watson, as Attorney General of the State of Florida; and brings this its bill of complaint against Leo H. Hill and United Association of Journeymen Plumbers and Steamfitters of United States and Canada, Local #234, as defendants, and shows:

1

That defendant United Association of Journeymen Plumbers and Steamfitters of United States and Canada, Local #234, is a labor union affiliated with the American Federation of Labor, said Local having its office and meeting place in the City of Jacksonville, Duval County, Florida. That the defendant Leo H. Hill is the duly authorized Business Agent of said defendant United Association of Journeymen Plumbers and Steamfitters of United States and Canada, Local #234, and he is a citizen and resident of the City of Jacksonville, Duval County, Florida.

2

That the Legislature of the State of Florida in regular session in 1943, enacted Chapter 21968, Laws of Florida, Acts of 1943, regulating the activities and affairs of labor unions, their officers, agents, members, organizers and other representatives, and required that every labor organization operating in the State of Florida shall make a report in writing to the Secretary of State annually, on or before July [fol. 5] 1, 1943, showing: (1) The name of the labor organization; (2) the location of its offices; (3) the name and address of the President, Secretary, Treasurer and Business Agent.

Plaintiff alleges that notwithstanding provisions of said acts required in making said report by labor organizations operating in the State, the defendant United Association of Journeymen Plumbers and Steamfitters of United States and Canada, Local #234, has failed and refused and does now fail and refuse to file said report required by said act, and Plaintiff has attached sheets and made a part hereof as

Exhibit A, a certificate of the Secretary of State to the effect that said report has not been filed.

That said Chapter 21968 requires that any person who shall for pecuniary or financial consideration act, or attempt to act, for any labor organization in: (A) the issuance of membership or authorization cards, work permits or any other evidence of rights granted and claimed in or by the labor organization, or (b) in soliciting or receiving from any employer any right or privilege for employees, shall first secure a license as Business Agent from the State of Florida upon and for that purpose shall duly file application with the Secretary of State. Plaintiff alleges that the defendant Leo H. Hill is the Business Agent of said United Association of Journeymen Plumbers and Steamfitters of United States and Canada, Local #234, and is acting for said organization in the issuance of membership, authorization cards or work permits for and on behalf of said labor organization and in soliciting and receiving from employers [fol. 6] rights and privileges for and on behalf of employees who are members of said labor organization, but that he has not complied with said Chapter 21968 by filing application with the Secretary of State for a license to act as Business Agent for said labor union and has wholly failed and refuses to apply for such license and is not licensed by the State of Florida to act as Business Agent for said labor union, and Plaintiff has attached hereto and made a part hereof as Exhibit A, a certificate of the Secretary of State to such effect.

Plaintiff alleges that unless and until the said defendants duly comply with Chapter 21968, they are acting illegally and in violation of the laws of this State; that no adequate remedy at law, save injunction is available to Plaintiff to compel said labor union as a group to comply with Chapter 21968 in the particulars alleged; that said defendant Leo H. Hill is committing numerous acts as Business Agent for said labor union from day to day which, so long as he remains unlicensed, under said Act, is illegal and wholly in disregard of the regular police powers of the State; that Plaintiff has no adequate remedy at law against the continuous, numerous and daily illegal acts of said defendant

Leo H. Hill; that the acts of said defendant in operation as a labor union and as Business Agent therefor, are so numerous and severable, that to attempt to bring proceedings against all and singular would require a multiplicity of suits, proceedings and prosecutions, costly and expensive and burdensome to the Courts.

[fol. 7] Wherefore, Plaintiff prays:

1. That this Honorable Court will take jurisdiction of this cause and the parties.

2. That this Honorable Court will issue temporary injunction enforcing and restraining the said defendant United Association of Journeymen Plumbers and Steamfitters of the United States and Canada, Local #234, its officers, and members from operating as a union, to require membership in said union, or payment of fees or dues to said union, by any person or persons before same can work for the St. Johns River Shipbuilding Company of Jacksonville, Florida, or any other employer in Duval County, unless and until said union fully complies with the provisions of Chapter 21968, Laws of Florida, Acts. 1943.

3. That this Honorable Court enter temporary injunction enjoining and restraining the said defendant Leo H. Hill from acting as Business Agent for said defendant, United Association of Journeymen Plumbers and Steamfitters of the United States and Canada, Local #234, within the meaning and intent of said Chapter 21968, Laws of Florida, Acts 1943, unless and until said defendant fully complies with and is licensed as a Business Agent for said Local labor union under said Act.

4. That upon final hearing that the Court make said temporary injunction permanent unless and until defendants duly comply with Chapter 21968, Laws of Florida Acts 1943.

And Plaintiff will ever pray, etc.

J. Tom Watson, Attorney General.

[fol. 8] Lawrence A. Truett, Assistant Attorney General:
R. W. Ervin Jr. Assistant Attorney General.

Duly sworn to by J. Tom Watson. Jurat omitted in printing.

EXHIBIT "A" TO BILL OF COMPLAINT

STATE OF FLORIDA, ss:

Office Secretary of State

I, R. A. Gray, Secretary of State of the State of Florida, do hereby certify that, according to the records of this office, United Association of Journeymen, Plumbers and Steam Fitters of the United States and Canada, Local #234 has not filed any report under Chapter 21968, Laws of Florida, Acts of 1943, as a Labor Union; and it is further certified that there has been no Application made by Leo [fol. 9] H. Hill of Jacksonville, Florida, for Business Agents License for the above named Union.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the 7th day of October, A. D. 1943.

R. A. Gray, Secretary of State.

Great Seal of The State of Florida.

IN CIRCUIT COURT OF DUVAL COUNTY

DEFENDANTS' ANSWER AND DEFENSIVE PLEADINGS—Filed December 6, 1943

Comes now Leo H. Hill and United Association of Journeymen Plumbers and Steamfitters of United States and Canada, Local #234, by their attorneys, Jennings & Coffee, and for answer to the Bill of Complaint, or to so much thereof as these defendants are severally advised it is necessary for them to answer, and answering say:

The defendants admit that the plaintiff, J. Tom Watson, is the Attorney General of the State of Florida, but deny that the said J. Tom Watson as such Attorney General is authorized by any valid law to maintain and prosecute this suit against the defendants.

1

[fol. 10] Answering paragraph numbered one of the bill of complaint, the defendant, United Association of Journey-men Plumbers and Steamfitters of United States and Canada, Local #234, admits that it is a labor union, and that it has its principal office and meeting place in the City of Jacksonville, Duval County, Florida. It avers further in

answer thereto that it is an unincorporated group of workmen engaged in the craft of plumbing, and that it is affiliated with an International Union of Journeymen Plumbers and Steamfitters of the United States and Canada, which said International Union, also unincorporated, is affiliated with the American Federation of Labor.

The defendants severally admit that Leo H. Hill is the duly authorized Business Agent of the defendant, United Association of Journeymen Plumbers and Steamfitters of United States and Canada, Local #234; that he is a citizen and resident of the City of Jacksonville, Duval County, Florida, and that he has been a citizen and resident as aforesaid for many years, and that he has been the duly authorized, elected and functioning Business Agent or Representative of said Union for a long period of time, to-wit, many years.

2

Answering paragraph numbered two of the bill of complaint, defendants severally admit that a Bill went through both Houses of the Legislature of the State of Florida, at its regular session in 1943, which said Bill is found among the session laws of said State as Chapter 21968, Laws of Florida, Acts of 1943, and which said Bill was denominated House Bill 142, and which, by its terms, provides that labor organizations operating in said State shall report in writing to the Secretary of State, the matters and things in said [fol. 11] paragraph of the bill of complaint as alleged, but aver that said Bill and Chapter was not legally and duly enacted by the Legislature of the State of Florida in that the same was not passed in accordance with the laws and rules of the Legislature as will more fully appear from the Journals of the House of Representatives and of the State Senate of said Legislature.

Further answering paragraph numbered two of said bill of complaint, these defendants severally admit that they have not filed the report provided for in said Bill and Chapter for the reason that they do not believe that the said Bill was duly enacted into law as required by the Constitution and Laws of the State of Florida and the rules of the House of Representatives and of the State Senate of the State of Florida, and for the further reason that they are informed, and verily believe, and so allege, that said Bill and Chapter is in contravention of the Con-

stitution of the United States of America, and of the Constitution of the State of Florida, which will be set forth hereinafter in great detail and is incorporated by reference as a part of defendants' answer severally to paragraph numbered two as fully and completely as if set forth in haec verba. The motion to dismiss is made part of this answer by special reference thereto, M. W. L. Judge, March 1st, 1944.

Answering paragraph numbered three of the bill of complaint, these defendants severally deny the several material allegations of said paragraph numbered three and require strict proof.

Further answering paragraph numbered three of the bill of complaint these defendants severally answering the [fol. 12] several allegations thereof admit that the Bill and Chapter as alleged therein contains substantially the provisions in said paragraph numbered three as cited, and admit that Leo H. Hill is the Business Representative of the defendant union and that he receives compensation as said Business Representative; defendants admit that the terms Business Representative and Business Agent are often used interchangeably, and do not make any point of the fact that the defendant, Leo H. Hill, is Business Representative rather than Business Agent except and insofar as the word agent may have a general technical meaning; defendants, however, deny that the defendant, Leo H. Hill, is the Business Agent of said defendant union in the technical legal sense that he is authorized or empowered to do any and all things that a fully authorized agent could do any perform, but on the contrary aver and allege that he, the said Leo H. Hill, is limited as Business Representative to the charter and by-laws of the defendant Union and its International Union; that the defendant, Leo H. Hill, is without power under the Charter and by-laws of the defendant Union and its International to issue membership cards, authorization cards, work permits or other rights granted and claimed in and by the defendant union, but that membership in said Union is only by vote of the members of defendant union, and any work permits or other authorization cards issued by the defendant, Leo H. Hill, are by special permission of the Union, and subject to the confirmation and ratification; that no inherent

fundamental or basic right is vested in the said Leo H. Hill in the premises.

Further answering paragraph numbered three of the bill of complaint, defendants severally aver that if and when the said Leo H. Hill solicits and receives from employers [fol. 13] privileges for and on behalf of employees who are members of the defendant union, he does so as a member of said union, and not necessarily as its Business Agent or Business Representative; that many members of said Union and Committees acting for and on behalf of it do and perform the acts charged to the defendant, Leo H. Hill.

Defendants severally admit that the defendant, Leo H. Hill, has not applied for a license, and is not licensed by the State of Florida as Business Agent for the defendant union, but defendants severally aver that in addition to the reasons set forth hereinabove that the Bill and Chapter on which the bill of complaint is predicated is null and void and without effect and in contravention of the Constitution of the United States of America and of the State of Florida, and was not enacted in compliance with the laws governing and the rules of the House of Representatives and the State Senate of the Legislature of the State of Florida, as will hereinafter appear in detail, and which are incorporated by reference as a part of defendants' answer to paragraph numbered three as fully and completely as if the same were set forth in haec verba. The Motion to dismiss is made part of this answer by special reference thereto. M. W. Lewis, Judge. March 1st, 1944.

Answering paragraph numbered four of the bill of complaint, the defendants severally deny the several allegations therein contained and require strict proof.

Further answering paragraph numbered four of the bill of complaint defendants severally deny that the plaintiff is without remedy at law save by injunction or that the defendant Union or the defendant, Leo H. Hill, are acting in disregard of the regulatory police powers of the State.

Defendants further answering said numbered paragraph severally aver and allege that any of their acts and doings are not contrary to the police powers of the State of Florida, or any reasonable interpretation thereof; that they are not

in contravention of the public safety, the public health, the public morals or the general welfare of the people of the State of Florida; that on the contrary the acts and doings of these defendants severally are in keeping with a high concept of the public safety, health, morals and general welfare of the people of the State of Florida.

And the defendants severally having fully answered the bill of complaint of plaintiff severally move to dismiss the same on the following grounds and for the following reasons severally, to-wit:

1

There is no equity in the bill.

2

The bill shows on its face, by its several allegations, that the plaintiff is not entitled to injunctive relief.

3

The allegations of fact contained in the bill of complaint do not state a sufficient basis for the relief sought.

4

Notwithstanding all of the allegations of the bill of complaint, it is not shown that the defendants, or either of them, have violated any valid statute of the State of Florida.

[fol. 15]

5

The bill of complaint fails to sufficiently allege the entity of the defendant, United Association of Journeymen Plumbers and Steamfitters of United States and Canada, Local #234, so as to make it a subject for the relief sought, or to vest in this Court jurisdiction over it.

6

The bill of complaint, and each allegation thereof, severally states incorrect legal conclusions of the pleader.

7

The bill of complaint is so vague, uncertain and indefinite as to prevent, and make impossible and impracticable, the defendants from preparing their defense.

8

Chapter 21968, Laws of Florida, Acts of 1943, is in violation and derogation of the Constitution of the State of Florida.

9

Chapter 21968, Laws of Florida, Acts of 1943, is in violation and derogation of the Constitution of the United States of America.

10

The operation and enforcement of Chapter 21968, Laws of Florida, Acts of 1943, threatens the invasion and destruction of rights, privileges and immunities guaranteed and secured to the defendants by the Constitution and laws of the United States and of the State of Florida, and will invade and destroy the personal and property rights of the defendants resulting in a multiplicity of suits and work irreparable injury on defendants and all those in their class.

[fol. 16]

11

Chapter 21968, Laws of Florida, Acts of 1943, purports to regulate the relations of employees and employers engaged in interstate commerce, producing goods for interstate commerce, and engaged in occupations affecting interstate commerce, and purports to regulate the activities of labor organizations, national in character, whose activities in the State of Florida are incidental to their national activities, and purports to regulate local subdivisions of such labor organizations, the power to regulate interstate commerce being within the exclusive province of the United States Government within the meaning of Article I, Section 8, of the Constitution of the United States.

12

Chapter 21968, Laws of Florida, Acts of 1943, particularly Section 9 (3) and (10) violates the Thirteenth Amendment of the United States Constitution in that said alleged statute purports to restrict free activities of members of labor unions and require involuntary servitude by prohibiting cessation of work under certain conditions.

Chapter 21968, Laws of Florida, Acts of 1943, particularly by Sections 4, 5, 6, 7 and 9, violates Article I, Section 10, and Section I of the 14th Amendment to the Constitution of the United States, and Section 17, Declaration of Rights of the Constitution of the State of Florida, in that said alleged statute purports to impair, interfere with and modify the obligations and agreements mutually assumed by and among members, local subdivisions, officers and agents of labor organizations and by and between said [fol.17] organizations and employees and others, and to have retroactive effect with respect thereto. It impairs and interferes with the rights, privileges and immunities of said labor organization and the members thereof to enter into and conclude agreements by and among themselves, by, with and through their mutual associations and with employers and others.

Chapter 21968, Laws of Florida, Acts of 1943, violates Article VI of the Constitution of the United States in that said alleged act is in conflict with the provisions of the National Labor Relations Act, Title 29, Sections 151 to 166, U. S. Code Ann., and in that said act is in conflict with and violates the public policy and law of the United States with respect to employees engaged in interstate commerce, or engaged in occupations affecting interstate commerce, as laid down in Section 151 of said Code, and it is further in conflict with and violates and seeks to abrogate the rights and privileges conferred on all of such workers by Sections 157 and 158 of said Code aforesaid.

Chapter 21968, Laws of Florida, Acts of 1943, deprives labor unions and the members of labor unions and the defendants herein and the members of defendant unincorporated association of liberty and property without due process of law, and specifically of the fundamental right of free speech and freedom of the press and the right to peacefully assemble and to petition for redress of grievance guaranteed to them by Sections 1, 12, 13 and 15 of the Constitution of the State of Florida and the First Amendment to the Constitution of the United States, which is secured against

abridgement by the States by the Fourteenth Amendment to the Constitution of the United States in the following particulars, to-wit:

[fol. 18] (a) Chapter 21968, Laws of Florida, Acts of 1943, by various sections, and among others by the terms of Sections 4, 5, 6, 7, 8 and 9, thereof, forbid persons and groups of persons to assemble together and freely discuss their desires as to joining a labor union, and forbid persons or groups of persons from attempting to persuade others to join a labor organization or from otherwise giving publicity to the advantages and benefits of joining a labor organization, to use peaceful persuasion and lawful publicity, to enlarge the membership of a labor union and to make known the provisions of the National Labor Relations Act and the bargaining rights of labor unions under said acts, and otherwise to exercise the inherent and fundamental right to speak freely and to state the true and actual facts relating to labor unions, or in any industrial controversy or otherwise to engage in the activities or to attempt to achieve the objectives and purposes of labor organizations as hereinabove set forth unless the said person or persons or the groups so assembling adopt certain rules and regulations governing its operations and decisions, activities and elections, and file certain designated documents with the officers of the state as a prerequisite, to the exercise of said constitutional rights.

(b) (Chapter 21968, Laws of Florida, Acts of 1943, by its various sections is an arbitrary and unreasonable interference with and prohibition upon labor unions and their members and the defendant union herein and the members of defendant union unincorporated association in its constitutional right to conduct its own lawful internal and mutually agreeable affairs, and in its constitutional right to engage in the activities of a labor organization and the members thereof.

[fol. 19]

16

By virtue of the foregoing Chapter 21968, Laws of Florida, Acts of 1943, deprives labor unions and their members of liberty and property without due process at law, and abridges their privileges and immunities and denies them the equal protection of the law contrary to Sec-

tion I of the Fourteenth Amendment to the Constitution of the United States, and to Section I, Declaration of Rights of the Constitution of the State of Florida; and, further by virtue of the fact that said statute denies to certain labor unions and the members thereof privileges and immunities and equal protection of the laws allowed all other classes of citizens of the State of Florida, said statute is applicable solely to certain labor unions and all other voluntary associations are exempt, and arbitrarily applies to labor unions limitations, restrictions, injury and interference not applied to any corporation or group other than labor unions, in violation of the Constitution of the State of Florida. The provisions of said statute are on arbitrary selection of certain labor unions and members, based on an arbitrary distinction without any foundation.

Sections 4, 5, 6, 7, 8 and 9 of said statute are further unconstitutional because they are an attempt to regulate by law the internal affairs of a labor organization to impose upon the members of such organization certain requirements, duties and obligations, deny to them the right to retain their present rights, privileges and benefits of membership in an unincorporated association, deprive them of their personal and property rights as individuals and as a group, and constitute an arbitrary interference with labor unions and their members in their constitutional right to conduct their own lawful internal affairs, and said [fol. 20] sections applying only to certain labor unions are not a reasonable, natural or just classification, but constitute an artificial or arbitrary distinction having no basis in law.

Section 4 of Chapter 21968, Laws of Florida, acts of 1943, is unconstitutional in that it deprives citizens of the United States of rights under the Constitution of the United States and of the State of Florida, in all cases where their citizenship has been held for a period of less than ten years. It discriminates against a member of a labor union who is a citizen from birth, but who has not resided in the United States for a full period of ten years next prior to making application for business agent's license. It deprives all aliens from privileges and opportunities afforded them by voluntary associations of fellow employees.

18

Section 15, Chapter 21968, Laws of Florida, Acts of 1943, violates Section I, XIV Amendment of the Constitution of the United States, being discriminatory in that railroad unions and their members are exempt from the Act.

19

Subsection (3) of Section 9 of Chapter 21968, Laws of Florida, Acts of 1943, violates Section I of the XIV Amendment of the Constitution of the United States in that it discriminates against minorities in favor of majorities with respect to the right to strike.

20

Chapter 21968, Laws of Florida, Acts of 1943, constitutes an improper arbitrary and unreasonable exercise of the State's police power, the restrictions provided therein being without rational basis and not justified by existing circumstances.

[fol. 21]

21

Chapter 21968, Laws of Florida, Acts of 1943, is in conflict with and violates the due process of law clause of the Fourteenth Amendment to the Constitution of the United States in that the said bill in its various provisions is so vague and indefinite and uncertain as to meaning that the things and matters therein sought to be prohibited are not capable of reasonable ascertainment in that, among others:

(a) The term "labor organization" as defined in Section 2 (1) is so vague and indefinite as to meaning as to be not susceptible of reasonable ascertainment and application.

(b) The term "business agent" as used in Section 2 (3) is so vague and indefinite as to meaning as to be not susceptible of reasonable ascertainment and application.

(c) The whole of Section 4, and particularly the clauses, "No person shall be granted a license or a permit to act as a business agent in the State of Florida, who has not been a citizen of and has not resided in the United States of America for a period of more than ten years next prior

to making application for such license or permit"; "Who has been convicted of a Felony"; "Who is not a person of good moral chafactor"; "a statement signed by the president and secretary of the labor organization"; "showing his authority so to do"; "any person may file objections"; "a Board"; "shall find that the applicant is qualified"; "the public interest requires that a license or permit should be issued to such applicant"; "Board shall by resolution authorize;" "unless sooner surrendered"; is so vague and indefinite as to meaning as to be not susceptible of reasonable ascertainment and application.

(d) The whole of Section 5 is so vague and indefinite as to meaning as to be not susceptible of reasonable ascertainment and application.

[fol. 22] (e) The whole of Section 8 is so vague and indefinite as to meaning as to be not susceptible of reasonable ascertainment and application.

(f) The whole of Section 9, and particularly the phrase in (1) "interfere with or prevent the right of franchise" and the clause in (2) "To prohibit or prevent any election of the officers of any labor organization"; in (4) "referred to in subsection 3"; subsections (10), (11) and (12); as used in said Section are so vague and indefinite as to meaning as to be not susceptible of reasonable ascertainment and application.

22

Chapter 21968, Laws of Florida, Acts of 1943, being a penal statute, is subject to strict construction and the invalid and unconstitutional sections and parts of the said Act, and the valid sections or parts, if any, are so interwoven and connected one with the other, and so dependent one upon the other, that it is apparent the Legislature would not have enacted and passed the valid sections or parts, if any, without enacting or passing the invalid sections and parts. Therefore, the invalid sections and parts defeat and destroy the intention of the Legislature in the enactment of said Act, and the valid sections and parts, if any, must fail with the invalid sections and parts.

Wherefore, defendants severally pray that the bill of complaint in this cause may be dismissed and that they

may be allowed severally to go hence with their costs in this behalf most wrongfully sustained.

Jennings & Coffee. By Lester W. Jennings, Jacksonville, Florida. Joseph A. Padway, Washington, D. C., Attorneys for the Defendants Severally.

[fol. 23] IN CIRCUIT COURT OF DUVAL COUNTY

MOTION TO STRIKE ANSWER OF DEFENDANTS—Filed Dec. 15, 1943

Comes now the State of Florida on the relation of J. Tom Watson, as Attorney General of the State of Florida, and moves the court to strike the answer heretofore filed in this cause by the defendants herein, and each and every paragraph thereof, separately and severally, and assigns the following grounds, separately and severally, as to the answer and each and every paragraph thereof;

1. It is not shown that there is any necessity for there to be any law authorizing the Attorney General to bring this suit.

2. It is apparent that the Attorney General is fully within his powers as Attorney General of the State of Florida in instituting this suit.

3. Same contains the conclusions of law of the pleader.

4. Same presents immaterial issues.

5. Same confesses the material allegations of the bill of complaint and does not set forth matter in avoidance of same.

6. Same is vague, indefinite and uncertain.

7. Same presents matters of law rather than questions of fact for the determination of this Court.

8. Same is in effect a motion to dismiss the bill of complaint rather than an answer as prescribed by law and the practice of this court in chancery matters.

[fol. 24] 9. Same contains conclusions of fact of the pleader.

10. Same presents no defense to the bill of complaint.

J. Tom Watson, Attorney General; Lawrence A. Truett, Assistant Attorney General; R. W. Ervin, Jr., Assistant Attorney General.

IN CIRCUIT COURT OF DUVAL COUNTY

ORDER DENYING MOTION TO STRIKE ANSWER—March 1, 1944

The motion to strike the Answer is hereby denied.

Done And Ordered in Chambers, at Jacksonville, Duval County, Florida, this the 1st day of March, 1944.

Miles W. Lewis, Judge.

IN CIRCUIT COURT OF DUVAL COUNTY

ORDER DENYING MOTION TO DISMISS—March 1, 1944

This cause came on this day to be heard and was argued and considered.

[fol. 25] The motion to dismiss the bill of complaint as a whole is denied. I think that the provision of Section 4 of the law before this Court which provides that if the Board are of the opinion that the public interest requires that a license or permit should be issued to an applicant, then the Board shall by resolution authorize the Secretary of State to issue such license or permit to a business agent, is invalid in so far as it undertakes to make the Board the judge of what is in the public interest. The Board should issue the permit to a business agent who can qualify under Divisions (1), (2) and (3) of Section 4. I think Section 6 is valid. I do not consider that the question as to whether or not some of the other provisions of the Act are Constitutional or not, or valid, is before this Court for decision under the bill as drawn because although some of the provisions of the Act may be unconstitutional and invalid, I don't think the Act is invalid as a whole.

Done And Ordered in Chambers, at Jacksonville, Duval County, Florida, this the 1st day of March, 1944.

Miles W. Lewis, Judge.

IN CIRCUIT COURT OF DUVAL COUNTY

STIPULATION AS TO PLEADINGS, DECREE AND APPEAL—Filed
June 22, 1944

Comes now the State of Florida, ex rel., J. Tom Watson, as Attorney General, of the State of Florida, Plaintiff, and [fol. 26] Leo H. Hill and United Association of Journeymen

Plumbers and Steamfitters of United States and Canada, Local #234, Defendants, parties to the above entitled cause, by their undersigned solicitors, and stipulate and agree as follows:

1. That the order in said cause entered by the Hon. Miles W. Lewis in the above entitled Court on, to-wit, the 1st day of March A. D., 1944, denying defendants' several motions to dismiss the bill of complaint is predicated upon the pleadings.

2. That no testimony was taken or evidence offered to the Special Master, Claude Ogilvie, appointed by order of said Court on March 1, A.D., 1944, within the seventy-five day period allowed for the taking of such testimony, because it was satisfactorily agreed between the parties hereto that the cause be determined upon the pleadings without the taking of testimony.

3. That the Court do forthwith enter its final decree in said cause upon the pleadings before it as the said Court may be advised, it being specifically understood and agreed between the parties hereto that they do not agree to or concur in such final decree so as to preclude them, or either of them, from appealing said cause to the Supreme Court of Florida, or any other appropriate appellate Court having jurisdiction to consider the same.

4. That the filing of notice of appeal after the entry of final decree shall be taken and construed to supersede the final decree of the Circuit Court in and for Duval County, without the necessity of the fixing or making of any supersedeas bond; provided that it is understood that such supersedeas shall not operate save in the instant case, to preclude the State of Florida from enforcing the provisions of Chapter 21968, Acts 1943, in any other situation which may arise under said Chapter.

State of Florida, ex rel., J. Tom Watson, as Attorney General of the State of Florida. By R. W. Ervin, Jr., Solicitors for Plaintiff.

Leo H. Hill and United Association of Journeymen Plumbers and Steamfitters of United States and Canada, Local #234. By Jennings & Coffee, by Lester W. Jennings.

IN CIRCUIT COURT OF DUVAL COUNTY

FINAL DECREE—Filed June 22, 1944

This cause coming on for final hearing upon the pleadings and the stipulation of the parties, and the parties being present by their respective counsel, it is Considered, Ordered, Decreed And Adjudged as follows:

1. That under the pleadings the only provisions of Chapter 21968, Laws of Florida, Acts of 1943 before the Court for determination of their constitutionality are Sections 4, and 6 of said Chapter, consequently the constitutionality of other provisions of the Chapter is not adjudicated in this decree.

[fol. 28] 2. That Section 4 of said Chapter is valid except that part thereof which reads, "and are of the opinion that the public interest requires that a license or permit should be issued to such applicant"; and the court orders, decrees and adjudges that the language, "and are of the opinion that the public interest requires that a license or permit should be issued to such applicant" is invalid for indefiniteness and other reasons, it being the opinion of this court that licenses should issue under said Chapter and Section to business agents for labor organizations when the qualifying requirements of said Section, exclusive of the quoted clause herein declared invalid, have been complied with; and that business agents for labor organizations be required to obtain such licenses under said Chapter accordingly. In this connection it is noted that Section 16 of said Chapter provides that invalidity found in any particular provision of said law shall not affect the validity of other provisions of the Chapter not found invalid.

3. That Section 6 of said Chapter is valid.

4. That the Defendant, Leo H. Hill, unless he shall within fifteen (15) days from the entry of this decree, duly apply for and procure under said Section 4 a business agent's license to act for said Defendant, United Association of Journeymen Plumbers and Steamfitters of United States and Canada, Local #234, he, and he is hereby enjoined and restrained from, and after the expiration of said fifteen days' period, from acting as business agent for said labor

organization until he shall thereafter duly procure said license.

5. That the Defendant, United Association of Journeymen Plumbers and Steamfitters of United States and Canada, Local #234 unless it shall within fifteen (15) days from the entry of this decree make the report and pay the One Dollar fee required by said Section 6, be, and it is hereby enjoined and restrained from, and after the expiration of said fifteen days' period, from functioning and operating as a labor organization or labor union, until it shall thereafter duly make such report and pay said fee.

Done and Ordered in Chambers within said Circuit this 22nd day of June, A. D. 1944.

Miles W. Lewis, Judge.

IN CIRCUIT COURT OF DUVAL COUNTY

NOTICE OF APPEAL—Filed June 27, 1944

The Defendants, Leo H. Hill and United Association of Journeymen Plumbers and Steamfitters of United States and Canada, Local #234, Severally take and enter this their appeal to the Supreme Court of Florida to review the order, judgment or decree of the Circuit Court of Duval County, Florida, bearing date the 22nd day of June A. D. 1944, entered in the above styled cause, and recorded in the records of said Court in Chancery Order Book, 338, at page 295, and all parties to said cause are called upon to take notice of the entry of this appeal.

Jennings & Coffee, By Lester W. Jennings, Solicitors for Defendants.

[fol. 30] Done and entered this 27th day of June A. D. 1944.

Elliot W. Butts, Clerk. By E. H. Griffin D. C.

IN CIRCUIT COURT OF DUVAL COUNTY

ASSIGNMENT OF ERRORS—Filed June 27, 1944

Now comes the Defendants, Leo H. Hill and United Association of Journeymen Plumbers and Steamfitters of United States and Canada, Local #234, by their solicitors

or record, and severally file this, the assignment of errors that they, and each of them, intend to rely upon for reversal in the Supreme Court, said assignment of errors being filed at the time when said defendants are applying to the Clerk of the Circuit Court for a transcript of the record in the above stated cause.

And the said named Defendants, and each of them severally, respectfully show that in the record and proceedings aforesaid, and also in the rendition of the order, decree or judgment in said cause, manifest error hath occurred in this:

Assignment of Error No. 1

The Court erred in the entry of its order, judgment or decree on, to-wit, the 22nd day of June A. D. 1944, which said order judgment or decree is recorded in Chancery Order Book 338, at page 295, of the records of said Court, in finding against the defendants and for the Relator herein.

Assignment of Error No. 2

The Court erred the entry of its said order, judgment [fol. 31], or decree rendered on, to-wit. The 22nd day of June A. D. 1944, and recorded in Chancery Order Book 338, at page 295, of the records of said Court, in finding that Section Four of Chapter 21968, Laws of Florida, Acts of 1943, is valid, except that part thereof which reads, "and are of the opinion that the public interest requires that a license or permit should be issued to such applicant."

Assignment of Error No. 3

The Court erred in the entry of its order, judgment or decree, on, to-wit, the 22nd day of June A. D. 1944, which said order, judgment or decree is recorded in Chancery Order Book 338, at page 295, of the records of said Court; in finding that Section Six of Chapter 21968, Laws of Florida, Acts of 1943, is valid.

Assignment of Error No. 4

The Court erred in the entry of its order, judgment or decree, rendered in the above styled cause on, to-wit, the 22nd day of June A. D., 1944, which said order, judgment or decree is recorded in Chancery Order Book, 338, at page

295, of the records of said Court, in finding that the Defendant, Leo H. Hill, unless he shall within fifteen days from the entry of said decree do apply for and procure under Section Four of said act, the business agent's license to act for the Defendant, United Association of Journeymen Plumbers and Steamfitters of United States and Canada, Local #234, be enjoined and restrained from acting as business agent for said labor organization.

Assignment of Error No. 5

The Court erred in the entry of its order, judgment or decree rendered in the above styled cause on, to-wit, the 22nd day of June A. D., 1944, which said order, judgment or decree is recorded in Chancery Order Book 338, at page [fol. 32] 295, of the records of said Court in finding that the Defendant, United Association of Journeymen Plumbers and Steamfitters of United States and Canada, Local #234, unless it shall within fifteen days from the entry of said decree make the report and pay the fee required by Section Six, of Chapter 21968, Laws of Florida, Acts of 1943, be enjoined and restrained from functioning and operating as a labor organization or labor union.

Assignment of Error No. 6

That Court erred in the entry of its order rendered in the above styled cause on, to-wit, the 1st day of March A. D., 1944, which said order is recorded in Chancery Order Book 331, at page 138, of the records of said Court, which said order denied the motion made by Defendants severally to dismiss the bill of complaint filed in said cause.

Assignment of Error No. 7

The Court erred in the rendition of its order entered in said cause on, to-wit, the 1st day of March A. D. 1944, which said order is recorded in Chancery Order Book 331, at page 138, of the records of said Court, in finding that Section Four of Chapter 31968, Laws of Florida, Acts of 1943, is valid, except as to that portion thereof which undertakes "to make the Board the judge of what is in the public interest."

Assignment of Error No. 8

The Court erred in the rendition of its order dated the 1st day of March A. D. 1944, which said order is recorded

in chancery Order Book 331, at page 138, of the records of said Court, in finding that Section Six of Chapter 21968, Laws of Florida, Acts of 1943, is valid.

[fol. 33] Assignment of Error No. 9

The Court erred in the rendition of its order, on, to-wit, the 1st day of March, A. D. 1944, recorded in Chancery Order Book 331, at page 138, of the records of said Court, in finding that the question as to whether or not some of the other provisions of the said Chapter 21968, Laws of Florida, Acts of 1943, are constitutional was not before the Court for consideration.

Assignment of Error No. 10

The Court erred in the rendition of its order on, to-wit, the 1st day of March A. D. 1944, which said order is recorded in Chancery Order Book 331, at page 138, of the records of said Court, in finding that Chapter 21968, Laws of Florida, Acts of 1943, is not invalid in its entirety.

Wherefore, appellants contend that the Court erred as hereinbefore set forth, and that the final order, judgment or decree of the said Court entered on, to-wit, the 22nd day of June A. D., 1944, which said order, judgment or decree is recorded in Chancery Order Book 338, at page 295, of the records of said Court should be by the Supreme Court of Florida reversed, and this cause remanded for further proceedings in accordance with the mandate of the Supreme Court.

Respectfully submitted, Jennings & Coffee, by Lester W. Jennings, Solicitors for Appellants.

STATE OF FLORIDA,
County of Duval:

Before me the undersigned authority, this day personally [fol. 34] appeared Betty Rubin, who upon being by me first duly sworn deposes and says: that she is the secretary in the office of Jennings & Coffee, solicitors for defendants, and that she did on, to-wit, the 27th day of June A. D. 1944, mail a full, true and correct copy of the foregoing Assignment of Errors to J. Tom Watson, as Attorney General of

the State of Florida, Plaintiff, by enclosing the said Assignment of Errors in an envelope addressed as follows:

Hon. J. Tom Watson, The Capitol, Tallahassee, Florida and that the said envelope, so addressed, containing a full, true and correct copy of said Assignment of Errors, properly sealed and having affixed thereto sufficient uncanceled United States postage stamps to transmit the same by first class mail was deposited by her in a United States mailing receptacle in the City of Jacksonville, Florida, on the date aforesaid, and affiant says that the said Assignment of Errors was sent to the usual mailing address of the said party.

Betty Rubin.

Subscribed and sworn to before me this 27th day of June, A. D. 1944. Pauline Bailey, Notary Public, State of Florida, at large. My commission expires on the 14 day of Feb. A. D. 1945. (Notarial Seal.)

[fol. 35] IN CIRCUIT COURT OF DUVAL COUNTY

DIRECTIONS TO THE CLERK RE PREPARATION OF TRANSCRIPT--
Filed June 27, 1944

You will please prepare a transcript of the record in the case of State of Florida, Ex Rel., J. Tom Watson, As Attorney General of the State of Florida, Plaintiff, Versus Leo H. Hill and United Association of Journeymen Plumbers and Steamfitters of United States and Canada, Local #234, You are hereby directed, to commence the making up of said transcript within the time allowed by law and the rules of Court.

You are directed to make a part of the transcript of the said record and to copy the following papers and proceedings in the same, to-wit:

1. Plaintiff's bill of complaint, filed in said cause on, to-wit, the 8th day of October A. D. 1943.
2. Defendants' answer and defensive pleadings, filed in said cause on, to-wit, the 6th day of December A. D., 1943.

3. Plaintiff's motion to strike answer of defendants, filed in said cause on, to-wit, the 15th day of December A. D. 1943.

4. Order of the Court entered in said cause on, to-wit, the 1st day of March A. D. 1944, and recorded in Chancery Order Book 331, at page 139, which said order [fol. 36] denied plaintiff's said motion to strike answer of defendants.

5. Order of the Court filed in said cause on, to-wit the 1st day of March A. D., 1944, and recorded in Chancery Order Book 331, at page 138, of the records of said Court, which said order denied the motion of the defendants to dismiss the bill of complaint in the entirety.

6. Stipulation of the parties made and entered into and filed in said cause on, to-wit, the 22nd day of June A. D., 1944.

7. Final decree of the Court made and entered in said cause on, to-wit, the 22nd day of June A. D., 1944, and recorded in Chancery Order Book 338, at page 295 of the records of said Court.

8. Defendants' notice and entry of appeal, and the record of same.

9. The assignment of errors, filed herein by the defendants severally, and the affidavit of service thereof upon the plaintiff.

10. These directions to the Clerk as to the making up of the transcript of record herein, together with the affidavit of service thereof upon the plaintiff.

You are further directed to recite the following papers and proceedings in the transcript of record, to-wit:

11. The summons in Chancery issued in said cause on, to-wit, the 8th day of October A. D., 1943.

12. The appearance in the said cause of the defendants severally.

13. The order of the Court made and entered in said [fol. 37] cause on, to-wit, the 1st day of March A. D., 1944, and recorded in Chancery Order Book 331, at page 140, which said order appointed a Special Master in said cause.

You are directed to omit all other and further papers and proceedings in the said cause from the transcript of the record.

Dated this 27th day of June A. D. 1944.

Jennings & Coffee, by Lester W. Jennings, Solicitors
for Defendants.

STATE OF FLORIDA,

County of Duval:

Before me the undersigned authority, this day personally appeared Betty Rubin, who upon being by me first duly sworn deposes and says: that she is the secretary in the offices of Jennings & Coffee, solicitors for defendants, and that she did on, to-wit, the 27th day of June A. D., 1944, mail a full, true and correct copy of the foregoing Directions to the Clerk for Preparation of Transcript to J. Tom Watson, as Attorney General of the State of Florida, Plaintiff, by enclosing the same in an envelope addressed as follows:

Hon. J. Tom Watson, The Capitol, Tallahassee, Florida

And that the said envelope, so addressed, containing a full, true and correct copy of said Directions to the Clerk for Preparation of Transcript, properly sealed and having affixed thereto sufficient uncanceled United States postage [fol. 38] stamps to transmit the same by first class mail was deposited by her in a United States mailing receptacle in the City of Jacksonville, Florida, on the date aforesaid, and affiant says that the said Directions to the Clerk for preparation of Transcript was sent to the usual mailing address of the said party.

Betty Rubin.

Subscribed and sworn to before me this 27th day of June A. D., 1944. Pauline Bailey, Notary Public, State of Florida, at large. My commission expires on the 14 day of Feb. A. D., 1945. (Notarial Seal.)

[fol. 39] IN CIRCUIT COURT OF DUVAL COUNTY

SUMMONS AND RETURN

On the 8th day of October A. D. 1943, the Summons was issued and returned served by Sheriff on October 11th, 1943.
Recited.

IN CIRCUIT COURT OF DUVAL COUNTY

APPEARANCE OF DEFENDANTS—Oct. 20, 1943

On the 20th day of October A. D., 1943, the defendants filed their Appearance by Jennings & Coffee. Recited.

IN CIRCUIT COURT OF DUVAL COUNTY

ORDER APPOINTING SPECIAL MASTER—March 1, 1944

On the 1st day of March, A. D., 1944, the Court entered its Order appointing Claude Ogilvie as Special Master, said Order being recorded in Chancery Order Book 331, at page 140. Recited.

[fols. 40-41] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 42] IN THE SUPREME COURT OF FLORIDA, JUNE TERM,
A. D. 1944 EN BANC

LEO H. HILL AND UNITED ASSOCIATION OF JOURNEYMEN
PLUMBERS AND STEAMFITTERS OF UNITED STATES AND CAN-
ADA, LOCAL #234, Appellants,

VS.

STATE OF FLORIDA, EX REL., J. TOM WATSON, ATTORNEY GEN-
ERAL, Appellee

DUVAL COUNTY

An Appeal from the Circuit Court for Duval County, Miles W. Lewis, Judge, Jennings & Coffee, Joseph A. Padway (Washington, D. C.) and Herbert S. Thatcher, (Washington, D. C.) for Appellants,
J. Tom Watson, Attorney General, Howard S. Bailey and R. W. Ervin, Jr., Assistant Attorneys General, for Appellee

OPINION—Filed November 28, 1944

TERRELL, J.

The Legislature of 1943 enacted Chapter 21968, Sections Four and Six of which are as follows:

“Section 4. No person shall be granted a license or a permit to act as a business agent in the State of

Florida, (1) who has not been a citizen of and has not resided in the United States of America for a period of more than ten years next prior to making application for such license or permit. (2) Who has been convicted of a felony. (3) Who is not a person of good moral character, and every person desiring to act as a business agent in the State of Florida shall before doing so obtain a license or permit by filing an application under oath therefor with the Secretary of State, [fol. 43] accompanied by a fee of one Dollar. There shall accompany the application a statement signed by the president and secretary of the labor organization for which he proposes to act as agent, showing his authority to do so. The Secretary of State shall hold such application on "file for a period of thirty days during which time any person may file objections to the issuing of such license or permit. After the expiration of the thirty day period, regardless of whether or not any objections have been filed, the Secretary of State shall submit the application, together with all information that he may have including any objections that may have been filed to such application to a board to be composed of the Governor as Chairman, the Secretary of State, and the Superintendent of Education. If a majority of the Board shall find that the applicant is qualified, pursuant to the terms of this Act (*and are of the opinion that the public interest requires that a license or permit should be issued to such applicant*), then the Board shall by resolution authorize the Secretary of State to issue such license or permit, same shall be for the calendar year and shall expire on December 31 of the year for which issued unless sooner surrendered, suspended, or revoked.

Section 6. Every labor organization operating in the State of Florida shall make a report in writing to the Secretary of State annually on or before July first. Such report shall be filed by the Secretary or business agent of such labor organization and shall be in such [fol. 44] form as the Secretary of State may prescribe, and shall show the following facts:

- (1) The name of the labor organization;
- (2) The location of its office;

- (3) The name and address of the president, secretary, treasurer, and business agent.

At the time of filing such report it shall be the duty of every such labor organization to pay the Secretary of State an annual fee therefor in the sum of One Dollar."

Appellants declined to comply with the provisions of the act as thus quoted, contending that it was invalid. This suit was brought by the Attorney General to restrain Local 234 from functioning as a labor organization and Leo H. Hill from acting as its business agent pending compliance with the law. A motion to dismiss the bill was overruled. An answer interposed various defenses predicated on the State and Federal Constitutions. On final hearing, Section Six was upheld as valid in toto. As to Section Four, the Court deleted the words "and are of the opinion that the public interest requires that a license or permit should be issued to such applicant", and upheld it in all other respects. This appeal is from the decree so entered.

It appears that the trial court deleted the provision from Section Four because it vested arbitrary power in the Board and was in conflict with the standard of qualification prescribed for one applying for a license to be a business agent of a labor union rendering it unconstitutional. We approve this holding.

It is first contended that Sections Four and Six as quoted and deleted are void because they restrain the exercise of appellants' civil rights guaranteed by the First amendment to the Federal Constitution.

[fol. 45] In essence, Section Four of Chapter 21968 hereafter referred to as House Bill 142, creates a State Licensing Board composed of the Governor, Secretary of State, and the State Superintendent of Public Instruction. All business agents for labor organizations must secure a permit from the State Licensing Board and as a prerequisite for securing such permit they must furnish proof that they have been (A) a citizen of the United States for more than ten years next preceding their application for the permit, (B) have not been convicted of a felony, (C) must be of good moral character and Section Six requires them to accompany the application with a fee of One Dollar.

Similar regulations are imposed on attorneys, physicians, barbers, insurance agents, real estate brokers, nurses, beauty parlor operators, civil engineers, architects, liquor dealers, and many others engaged in gainful occupations. All such requirements have been upheld in the interest of the public health, morals, safety, welfare, and prosperity of the people. They are imposed on the theory that the business engaged in by the applicant vitally affects the public welfare and that the public is entitled to the protection they afford.

Such regulations have been imposed under the police power of the State and have been generally upheld for reasons so academic that it would hardly seem necessary to cite authority to support them. Appellant's answer to this is that they are like religious associations, law and order leagues, citizens committees and chambers of commerce, and should like these, be exempt from such regulations. Our attention is directed to no similarity between labor unions and the last named institutions and as we shall later show, there is no basis to grant them the same exemption.

Appellants contend that these regulations unduly restrict their freedom of speech, free press, and free assembly. This contention overlooks the fact that none of these guaranties are absolutes but are subject to reasonable police regulation in the interest of the public. [fol. 46] It would be difficult to name an organization that more vitally affects the public or one in which the public is more vitally interested than the organizations of labor. Their activities and their public relations of late years have frequently pushed the war and every other human relation off the front page. To hold that their agents may not be regulated in the manner prescribed here would amount to a reversal of our holding with reference to every other kindred relation. *National Labor Relations Board vs. Jones & Laughlin Steel Corp.*, 301 U. S. 1; 57 Sup. Ct. 615, 81 L. Ed. 893; *Riley vs. Sweat*, 110 Fla. 362, 149 So. 48; *Page vs. State Board of Medical Examiners*, 141 Fla. 294, 193 So. 82; *State ex rel. Munch vs. Davis*, 143 Fla. 236, 196 So. 491; *State Board of Funeral Directors vs. Cooksey*, 147 Fla. 337, 3 So. (2nd) 502.

Appellants also contend that Sections Four and Six of House Bill 142 unduly restrict their right to assemble as

working men, to solicit membership in labor organizations and that the fee charged is an undue restraint on these and other civil rights. They rely on *Murdock vs. Pennsylvania*, 319 U.S. 105, 63 Sup. Ct. 870, 87 L. Ed. 1292, and that line of cases to uphold this contention.

The gist of this contention is that they are no different from religious, fraternal, and charitable organizations and should enjoy the same immunity from license or other restraints. The answer to this contention is that religious, fraternal, and charitable organizations are in terms immunized from license taxes and other regulations on the theory that they minister to the spiritual, moral, educational and other necessities of the community. They are very largely gratuitous, are not imbued with the profit aspect and there is every reason why they should be so immunized while none of the reasons that immunize them have been shown to be attached to labor organizations.

The Federal Supreme Court has repeatedly upheld acts regulating different phases of employer and labor relations in the interest of the common good. *National Labor Relations Board vs. Electric Vacuum Cleaner Co.*, 120 Fed. (2nd) 611, reversed on other grounds in 315 U. S. 685, 62 Sup. Ct. 846, 86 L. Ed. 1120; *American Steel Foundries vs. Tri-City Central Trades Council*, 257 U. S. 184, 42 Sup. Ct. 72, 66 L. Ed. 189. In the briefs of counsel for the State, our attention is directed to acts by at least eleven other states, Alabama, Kansas, Arkansas, Wisconsin, South Dakota, Idaho, Texas, Michigan, Pennsylvania, Massachusetts, and Minnesota regulating some phase of labor relations. Some of these acts are very similar to the one in question but others are different in some respects. The case of *Ex parte Thomas*, 141 Tex. 591, 174 S. W. (2nd) 958, is illuminating on the point because in most features, the Texas act is similar to ours and it upholds the power of the State to regulate labor unions under its police power. Casual review of the cases cited would seem to settle the controversy beyond question.

The requirement of Section Six to file annual reports giving (1) the name of the labor organization, (2) the location of its office, and (3) the name and address of its president, secretary, treasurer, and business agent is supported by similar requirements in acts of Kansas, Texas, Wisconsin.

Idaho, South Dakota, and Alabama. The Alabama Act was upheld by the Alabama Supreme Court in *State Federation of Labor vs. Robert E. McAdory*, — Ala. —, 18 So. (2nd) 810. The opinion treats in a very illuminating manner this and other phases of labor union regulation.

[fol. 48] The charge that House Bill 142 is new legislation hardly merits consideration. In a democracy like ours, regulatory legislation never precedes but always follows a felt necessity or demand for it. No social system could long endure that does not remain responsive to the need for change and flexible enough to modify its legislative patterns to compass the changes. Every form of social organization must be constantly amended to meet new techniques and changing circumstances. Call it progress or liberalism as you will, the instant we lose the incentive, we become static and ultimately perish.

As to the charge of One Dollar for a business agent's license, appellants contend that this is in reality a tax which amounts to a restraint on their civil rights, that is to say the right of workers to assemble for mutual aid and protection, to circulate and disseminate information, to form and join unions and to solicit others to join them.

We see no merit to this contention. The fee of One Dollar is nothing more than a charge to defray the cost of the service. Neither section Four or Six in any way affects the right of workmen to assemble for mutual aid, to circulate information or to organize and invite others to join them. These are all rights this Court has repeatedly recognized. *Paramount Enterprises, Inc. vs. Mitchell*, 104 Fla. 407, 140 So. 328.

We have reviewed all the cases cited by appellants in support of their contention as to civil rights but their main reliance appears to be on *Thornhill vs. Alabama*, 310 U. S. 88, 60 Sup. Ct. 736, 84 L. Ed. 1093; *Schneider vs. Irvington*, 308 U. S. 147, 60 Sup. Ct. 146, 84 L. Ed. 155; *Lovell vs. Griffin*, 303 U. S. 444, 58 Sup. Ct. 666, 82 L. Ed. 949; *Hague vs. C. I. O.*, 307 U. S. 496, 59 Sup. Ct. 954, 83 L. Ed. 1423; *Cantwell vs. Connecticut*, 310 U. S. 296, 60 Sup. Ct. 900, 84 L. Ed. 1213; *Near vs. Minnesota*, ex rel., *Olson*, 283 U. S. 697, 51 Sup. Ct. 625, 75 L. Ed. 1357; *A. F. of [fol. 49] L. vs. Swing*, 312 U. S. 321, 61 Sup. Ct. 568, 85 L. Ed. 855, and like cases. These cases have all been reviewed in connection with the case at bar as well as in for-

mer decisions of this Court and we think are directed to statutes or ordinances prohibiting the distribution of literature without a special permit depending on the arbitrary discretion of the mayor or some other officer. For this or similar reason, they are not in point with the case at bar.

It is quite true that in *Thornhill vs. Alabama*, first cited in the preceding paragraph, the Court brought "picketing" within the protection of the Bill of Rights but so far as we have been able to find, organizing labor unions, collective bargaining, boycotting, striking, and other labor practices have been so immunized. It may be that conditions will arise in the future in which other labor practices should be so protected but such a case must await the appropriate conditions. With the facts before us, it certainly would be a tortured construction of the Bill of Rights to hold that other lines of endeavor are subject to police regulation but that labor unions are free from any species of regulation.

Individual freedoms guaranteed by the Constitution did not become such by chance. They were designed as a buffer to personal worth; they have no relation to institutions but they raised man to his full stature, put sand in his "guts" and raised him to a level with kings. Freedom of speech, for example, was first employed to guarantee members of Parliament that they would not be called on the carpet by the king for any discussion they participated in on the floor of the house regarding public affairs. The right was later extended to the citizen as to all political discussion and when our Constitution was adopted, it was first included as one of the fundamental rights available to every citizen.

Labor unions, like other trade, professional and business organizations are concerned with the business of making a [fol. 50] living. They do not bother themselves with the things that concern religious bodies, chambers of commerce and like institutions. It is on this basis that we say they are subject to the police power, but can it be reasonably contended that Sections Four and Six of House Bill 142 impose any unreasonable burden on them? Section Four requires nothing more than a showing of the Americanism, good moral character, and freedom from felony of their business agents and Section Six requires them to furnish the Secretary of State their name, place of business, and the name and address of the president, secretary, treasurer,

and business agent. Literally thousands of persons and institutions over the country are required by State and Federal Governments to furnish similar information and many of them much more. In fact, the requirement of Section Six goes only to information that is common knowledge in the community where the labor union is located and most of it goes to the public on the communications it sends out.

We have long since gotten away from the idea that human relations which affect the public welfare can be transacted in a moral vacuum. Good moral character and sound Americanism is the very basis on which democratic institutions rest. It permeates every aspect of human relations from the White House down to the most juvenile community enterprise. A boy cannot get into a marble game if he does not play the game in recognition of the moral that his companions have rights that he must respect and the same moral thread runs through business relations, labor relations, and all other relations that affect the public. Democratic institutions would go to pot quicker than it would take to tell how except for the moral standard on which they are pitched. It is past understanding that any one who plies his trade, business, or profession for a living should seriously contend that he is footloose in a moral universe with carte blanche to do as he pleases when others in like situation are bound by every restriction the Bill of Rights [fol. 51] will permit. In this state of the law, it would seem idle to say that one's civil rights were unduly hobbled to require him to show his good moral character, that he had been exposed to the American way of life for ten years, that he had not committed a felony, where he is conducting his business, and who is conducting it for him.

The sole test for the exercise of the police power is reasonableness. True, the Legislature cannot under the guise of the police power arbitrarily invade personal or property rights or interfere with private business but if the statute has some rational relation to the safety, health, morals, or general welfare and the means employed may be reasonably said to accomplish the desired purpose, it is within the scope of the police power. The means adopted by the act must be reasonably necessary. They must be reasonable in their effect on the person, must not be oppressive and must not be designed for the annoyance of any particular person or class.

It is next contended that Sections Four and Six of House Bill 142 invade the field covered by the National Labor Relations Act and consequently it is nonenforceable.

This contention proceeds on the presumption that the National Labor Relations Act preempts the field of labor regulation and removes any power on the part of the states to do so. If appellants' contentions were true, the National Labor Relations Act rather than the Act in question would go down under the Constitution. *National Labor Relations Board vs. Jones & Laughlin Steel Corp.*, 301 U. S. 1, 57 Sup. Ct. 615, 81 L. Ed. 893; *Wisconsin Labor Relations Board vs. Fred Ruepling Leather Co.*, 228 Wis. 473, 279 N. W. 673. In both these cases it was held that the power of Congress to regulate labor relations rested on the commerce clause while the power of the State rested on the police power and that the State power was supreme when [fol. 52] no undue burden was laid on interstate commerce. Unless interstate commerce is obstructed, the Federal Act may not be called into operation.

It is next contended that House Bill 142 is invalid for discrimination in that Section 15 exempts associations of Railway Employees from its provisions contrary to the equal protection clause of the Fourteenth Amendment.

On this point, it is sufficient to say that all the state acts herein referred to make similar exemptions and none of them that have been assaulted for this reason have been stricken down. In fact, it seems to be a classification common to acts of this kind and one the Legislature was empowered to make. *Alabama State Federation of Labor vs. McAdory*, — Ala. —, 18 So. (2nd) 810; *A. F. of L. vs. Reilly*, 7 Labor Cases, 65, 168.

In our treatment of House Bill 142, we have observed the line followed by counsel in their briefs. In other words, Sections Four and Six have generally been treated together. It is true that their provisions overlap, but in the main, Section Four applies to the business agent and Section Six applies to the Union or organization. A better practice would have been to recognize this distinction in the opinion but it would have resulted in much duplication and a more tedious discussion. The point is that labor organizations so vitally affect the public that they may be regulated in like manner as other organizations likewise engaged and their business agents may be subject to like regulation as

insurance agents, real estate brokers, and others engaged in occupations that affect the public. The purpose of the regulation is not punic but to preserve the democratic process and bring to the knowledge of the individual or group regulated that it has an obligation to the public that rises above its personal or group interest.

[fols. 53-54] Other questions argued have been considered but we find no reversible error.

Affirmed.

Buford, C. J.; Brown, Chapman, Thomas, Adams and Sebring, J. J., concur.

[fols. 55-56] IN THE SUPREME COURT OF FLORIDA, JUNE TERM
A. D. 1944

LEO H. HILL AND UNITED ASSOCIATION OF JOURNEYMEN
Plumbers and Steamfitters of United States and Canada,
Local #234, Appellants,

vs.

STATE OF FLORIDA, ex Rel.; J. TOM WATSON, Attorney
General, Appellee

JUDGMENT—November 28, 1944

This cause having heretofore been submitted to the Court upon the transcript of the record of the decree herein, and briefs and argument of counsel for the respective parties, and the record having been seen and inspected, and the Court being now advised of its judgment to be given in the premises, it seems to the Court that there is no error in the said decree; it is therefore, considered, ordered and decreed by the Court that the said decree of the Circuit Court be and the same is hereby affirmed; it is further ordered by the Court that the Appellee do have and recover of and from the Appellants his costs by him in this behalf expended, which costs are taxed in the sum of \$—, all of which is ordered to be certified to the Court below.

The Opinion of the Court in this cause prepared by Mr. Justice Terrell was this day ordered to be filed.

[fols. 57-58] IN SUPREME COURT OF FLORIDA °

MANDATE

The State of Florida

To the Honorable, the Judge of the Circuit Court for the Fourth Judicial Circuit of Florida: Greeting:

Whereas, Lately in the Circuit Court of the Fourth Judicial Circuit of Florida, in and for the County of Duval in a cause wherein J. Tom Watson, as Attorney General of the State of Florida, was complainant, and Leo H. Hill and United Association of Journeymen Plumbers and Steamfitters of United States and Canada, Local #234, were defendants, the Decree of said Circuit Court was rendered June 22, 1944, as by the inspection of the transcript of the record of the said Circuit Court which was brought into the Supreme Court of the State of Florida, by virtue of an appeal agreeably to the laws of said State in such case made and provided, fully and at large appears:

And Whereas, at the June Term of said Supreme Court holden at Tallahassee, A. D. 1944, the said cause came on to be heard before the said Supreme Court on the said transcript of the record and was argued by counsel; in consideration whereof, on the 28th day of November A. D. 1944 it was considered by said Supreme Court that the said Decree of the Circuit Court be and the same is hereby affirmed; it is further ordered by the Court that the Appellee do have and recover of and from the Appellants his costs by him in this behalf expended, which costs are taxed at the sum of — Dollars; therefore,

You are hereby commanded, That such further proceedings be had in said cause as according to right, justice, the judgment of said Supreme Court, and the laws of the State of Florida, ought to be had, the said Decree of the Circuit Court notwithstanding.

Witness, The Honorable Rivers Buford, Chief Justice of said Supreme Court, and the seal of said Court at Tallahassee, this 14th day of December, 1944.

(S.) Guyte P. McCord, Clerk Supreme Court of Florida. (Supreme Court Seal.)

[fol. 59] IN THE SUPREME COURT OF FLORIDA

[Title omitted]

NOTICE OF INTENTION TO BRING CERTIORARI

The above named Appellants, Leo H. Hill and United Association of Journeymen Plumbers and Steamfitters of United States and Canada, Local #234, severally, give notice that they will in due time and in accordance with the rules of the United States Supreme Court present their Petition for Writ of Certiorari from the Supreme Court of the United States to the Supreme Court of Florida in the above entitled cause from the Opinion and Final Judgment of the Court in said cause.

Joseph A. Padway, Herbert S. Thatcher, Edwin C. Coffee, Lester W. Jennings, Solicitors for Appellants.

[fol. 60] IN THE SUPREME COURT OF FLORIDA

[Title omitted]

PRAECIPE FOR RECORD

The Clerk of the above entitled Court is requested and directed to forthwith prepare and transmit to the Clerk of the United States Supreme Court a full and complete transcript of the record in the above entitled cause, in order that said transcript may be in the office of the Clerk of the Supreme Court of the United States at the earliest possible time; it being the purpose and intent of the Appellants to present to the Supreme Court of the United States their Petition in Certiorari, together with their Brief in support of the same.

Appellants request that the following items be included in such transcript.

(1) Copy of full and complete transcript from the Circuit Court, in and for Duval County, to the Supreme Court of Florida.

(2) Opinion of the Florida Supreme Court and its Judgment.

[fol. 61] (3) Mandate of the Supreme Court of Florida to the Circuit Court, in and for Duval County, Florida.

(4) Copy of notice of intent to apply for Writ of Certiorari before the United States Supreme Court, together with the directions to the Clerk of the Florida Supreme Court for making up and transmitting the record to the Clerk of the Supreme Court of the United States, together with proof of service upon the Attorney General of the State of Florida of the same.

(5) Any other items or documents on file in your office necessary to make a full and complete record of the entire proceedings in the Supreme Court of the State of Florida.

(6) Your usual certificate and appropriate seal as to the correctness or bona fides of all documents transmitted to the Clerk of the United States Supreme Court.

Joseph A. Padway, Herbert S. Thatcher, Edwin C. Coffee, Lester W. Jennings, Solicitors for Appellants.

[fol. 62] STATE OF FLORIDA,
County of Duval:

Before me the undersigned authority, this day personally appeared Betty Rubin, who upon being by me first duly sworn, deposes and says: That she is the secretary in the offices of Joseph A. Padway, Herbert S. Thatcher, Lester W. Jennings and Edwin C. Coffee, Attorneys for Appellants, and that she did on, to-wit, the 13th day of December A. D., 1944, mail a full, true and correct copy of Notice of Intention To Bring Certiorari and Directions To Clerk to J. Tom Watson, as Attorney General of the State of Florida, by enclosing the same in an envelope addressed as follows:

Hon. J. Tom Watson, Attorney General, The Capitol, Tallahassee, Florida.

And that the said envelope, so addressed, containing full, true and correct copies of said documents and papers aforesaid, properly sealed and having affixed thereto sufficient uncanceled United States postage stamps to transmit the same by first class mail, was deposited by her in a United States mailing receptacle in the City of Jacksonville.

Florida, on the date aforesaid, and affiant says that said documents and papers were sent to the usual mailing address of said party.

Betty Rubin.

Subscribed and sworn to before me this 13 day of December, A. D. 1944. Hortense Clare Arnow, Notary Public, State of Florida at large. My commission expires on the 12 day of November, A. D. 1947. (Seal.)

[fol. 63] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 64] SUPREME COURT OF THE UNITED STATES.

ORDER ALLOWING CERTIORARI—Filed February 5, 1945

The petition herein for a writ of certiorari to the Supreme Court of the State of Florida is granted, and the case is assigned for argument immediately following No. 855. The Solicitor General is invited to file a brief *amicus curiae* if he is so advised.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

(6633)